

**INSULATION TECHNOLOGIES,
INC.**

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NO. 2013-CA-0194

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COURT OF APPEAL

VERSUS

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FOURTH CIRCUIT

**INDUSTRIAL LABOR AND
EQUIPMENT SERVICES, INC.**

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STATE OF LOUISIANA

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TOBIAS, J., CONCURS IN PART AND DISSENTS IN PART.

I concur in the majority conclusion that the appellant's petition does not presently state a cause of action, I respectfully dissent from the majority's decision to prohibit the appellant from amending his petition to assert an oblique action.

La. C.C. 2044; *Nicholson Management & Consultants, Inc. v. Bergman*, 96-0557, 96-0558 (La. App. 4 Cir. 9/25/96), 681 So.2d 471. I cannot ascertain from the record before us that the appellant may not have such a cause of action. Therefore, I would remand to permit the appellant to amend and supplement.